



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/392,434	09/09/1999	LARRY L. BRADFORD	ACA6124PDUS	1107
7590 02/17/2004			EXAMINER	
RICHARD P FENNELLY AKZO NOBEL INC INTELLECTURAL PROPERTY DEPARTMENT 7 LIVINGSTONE AVENUE DOBBS FERRY, NY 105223408			SERGENT, RABON A	
			ART UNIT	PAPER NUMBER
			1711	
DATE MAILED: 02/17/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/392,434

Applicant(s)

BRADFORD ET AL.

Examiner

Rabon Sergent

Art Unit

1711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3,5-11,13 and 14.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.


Rabon Sergent
Primary Examiner
Art Unit: 1711

Continuation of 2. : The proposed amendment has not been entered because it fails to comply with the provisions of 37 CFR 1.121. Claims 4 and 12 and their status have been omitted from the proposed amendment.

Continuation of 5. : Firstly, it is noted that applicants' response to the 35 USC 112, second paragraph rejection is based upon an amendment that will not be entered. Secondly, with respect to the prior art rejections, the rejections have been maintained for the reasons set forth within the final Office action. Furthermore, it has been held that it is prima facie obvious to utilize a known ingredient for its known function (In re Linder, 173 USPQ 356; In re Dial et al., 140 USPQ 244) and to combine two compositions, each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition which is to be used for the very same purpose (In re Kerkhoven, 205 USPQ 1069). With these decisions in mind, the position is taken that applicants have failed to provide a convincing argument why it would not have been obvious to combine the argued and known flame retardants from the respective primary and secondary references so as to obtain the claimed flame retardant mixture. Applicants have failed to provide showings of unexpected results, wherein the claimed mixture is compared against mixtures containing an oligomeric flame retardant and a flame retardant, other than that corresponding to applicants' claimed component (a) but still falling within the flame retardants suggested by the primary and secondary references.


RABON SERGENT
PRIMARY EXAMINER